



DEPARTMENT OF EDUCATION

34 CFR Chapter III

[Docket ID ED-2021-OSERS-0160]

Proposed Priority--State Personnel Development Grants

AGENCY: Office of Special Education and Rehabilitative Services, Department of Education.

ACTION: Proposed priority.

SUMMARY: The Office of Special Education and Rehabilitative Services (OSERS) proposes a funding priority under the State Personnel Development Grants (SPDG) program, which assists States in reforming and improving their systems for personnel preparation and personnel development in order to improve results for children with disabilities. We take this action to focus attention on the need to improve results for children with disabilities and their families by supporting a comprehensive system of personnel development (CSPD) for the Individuals with Disabilities Education Act (IDEA) Part C Grants for Infants and Families program. The Department may use the proposed priority for competitions in fiscal year (FY) 2022 and later years.

DATES: We must receive your comments on or before **[INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

ADDRESSES: Submit your comments through the Federal eRulemaking Portal or via postal mail, commercial delivery,

or hand delivery. We will not accept comments by fax or by email or those submitted after the comment period. Please submit your comments only one time, in order to ensure that we do not receive duplicate copies. In addition, please include the Docket ID at the top of your comments.

- Federal eRulemaking Portal: Go to www.regulations.gov to submit your comments electronically. Information on using Regulations.gov, including instructions for accessing agency documents, submitting comments, and viewing the docket, is available on the site under "Help."

Privacy Note: The Department's policy is to make all comments received from members of the public available for public viewing in their entirety on the Federal eRulemaking Portal at www.regulations.gov. Therefore, commenters should be careful to include in their comments only information that they wish to make publicly available.

FOR FURTHER INFORMATION CONTACT: Jennifer Coffey, U.S. Department of Education, 400 Maryland Avenue, SW, room 5161, Potomac Center Plaza, Washington, DC 20202-5076. Telephone: (202) 245-6673. Email: Jennifer.Coffey@ed.gov.

If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1-800-877-8339.

SUPPLEMENTARY INFORMATION:

Invitation to Comment: We invite you to submit comments regarding the proposed priority. To ensure that your comments have maximum effect in developing the final priority, we urge you to comment only on the proposed priority.

We invite you to assist us in complying with the specific requirements of Executive Orders 12866 and 13563 and their overall requirement of reducing regulatory burden that might result from the proposed priority. Please let us know of any further ways we could reduce potential costs or increase potential benefits while preserving the effective and efficient administration of the program.

During and after the comment period, you may inspect all public comments about the proposed priority by accessing Regulations.gov. You may also inspect the comments in person. Please contact the person listed under FOR FURTHER INFORMATION CONTACT to make arrangements to inspect the comments in person.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record: On request, we will provide an appropriate accommodation or auxiliary aid to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for the proposed priority. If you want to schedule an appointment for this type of accommodation or auxiliary

aid, please contact the person listed under FOR FURTHER INFORMATION CONTACT.

Purpose of Program: The purpose of this program is to assist State educational agencies (SEAs) in reforming and improving their systems for personnel preparation and professional development in early intervention, educational, and transition services to improve results for children with disabilities.

Program Authority: 20 U.S.C. 1451-1455.

PROPOSED PRIORITY:

This notification contains one proposed priority.

Supporting an IDEA Part C Comprehensive System of Personnel Development (CSPD).

Background:

The purpose of this proposed priority is to support further advancement of IDEA Part C CSPDs. Use of this proposed priority would allow the Department to award funds competitively to SEAs to provide to their State lead agencies (LAs) to further develop the IDEA Part C statewide CSPD systems outlined in section 635(a)(8) of IDEA in accordance with the State plan under section 653 of IDEA and implement professional development activities that are authorized under the use of funds provisions under section 654 of IDEA. In order to be considered for a grant under this priority, if the SEA is not the State LA for IDEA Part C, an SEA shall establish a partnership, consistent with

IDEA section 652(b)(1)(B), with the State LA, which is the State lead agency responsible for administering IDEA Part C, including the CSPD requirements.

Note: To carry out the State plan under section 653 of IDEA, as described in its application, the SEA also may award contracts, subgrants, or both to other public and private entities, including, if appropriate, the State LA under Part C of IDEA.

We intend for this proposed priority to supplement the SPDG statutory priority, published in the Federal Register on February 13, 2017 (82 FR 10470),¹ as well as other relevant statutory and regulatory priorities established by the Department. Specifically, all applicants must meet the statutory requirements in sections 651 through 655 of the IDEA, 20 U.S.C. 1451-1455.

Proposed Priority:

Projects designed to enable the State to meet the CSPD requirements of section 635(a)(8) and (9) of the IDEA. In order to be considered for a grant under this priority, if the SEA is not the State LA for IDEA Part C, an SEA shall establish a partnership, consistent with IDEA section 652(b)(1)(B), with the State LA responsible for administering IDEA Part C. Consistent with IDEA section 635(a)(8), the purpose of this priority is to help improve the capacity of States' IDEA Part C personnel development,

¹ www.federalregister.gov/documents/2017/02/13/2017-02895/applications-for-new-awards-state-personnel-development-grants-spdg-program.

including the training of paraprofessionals and the training of primary referral sources with respect to the basic components of early intervention services available in the State. The CSPD must include: (1) Training personnel to implement innovative strategies and activities for the recruitment and retention of early education service providers; (2) Promoting the preparation of early intervention providers who are fully and appropriately qualified to provide early intervention services under this part; and (3) Training personnel to coordinate transition services for infants and toddlers with disabilities who are transitioning from an early intervention service program under Part C of the Act to a preschool program under section 619 of the Act, Head Start, Early Head Start, an elementary school program under Part B of the Act, or another appropriate program. The IDEA Part C CSPD may also include, consistent with 34 CFR 303.118(b): (1) Training personnel to work in rural and inner-city areas; (2) Training personnel in the emotional and social development of young children; and (3) Training personnel to support families in participating fully in the development and implementation of the child's Individualized Family Service Plan; and (4) Training personnel who provide services under this part using standards that are consistent with early learning personnel development standards funded under the State Advisory Council on Early Childhood Education and

Care established under the Head Start Act, if applicable. The SEA must include in its State plan how it will partner with the State LA, if the SEA is not the State LA for IDEA Part C, to implement these aspects of the CSPD. The description of the partnership should indicate the amount and percentage of SPDG funding that will support implementation of the CSPD over the project period and how funding will complement current efforts and investments (Federal IDEA Part C appropriations and State and local funds) to implement the CSPD. The description should also describe the extent to which funds will be used on activities to increase and train personnel working with infants and toddlers and their families that have historically been underserved by Part C.²

Types of Priorities:

When inviting applications for a competition using one or more priorities, we designate the type of each priority as absolute, competitive preference, or invitational through a notice in the *Federal Register*. The effect of each type of priority follows:

Absolute priority: Under an absolute priority, we consider only applications that meet the priority (34 CFR 75.105(c)(3)).

² If the provision requiring State IDEA Part C programs to develop an equity plan is enacted in the FY2022 appropriations, then projects must align their CSPD activities with State IDEA Part C equity plans, which are plans to support equitable access to and participation in Part C services in the State, particularly for populations that have been traditionally underrepresented in the program.

Competitive preference priority: Under a competitive preference priority, we give competitive preference to an application by (1) awarding additional points, depending on the extent to which the application meets the priority (34 CFR 75.105(c)(2)(i)); or (2) selecting an application that meets the priority over an application of comparable merit that does not meet the priority (34 CFR 75.105(c)(2)(ii)).

Invitational priority: Under an invitational priority, we are particularly interested in applications that meet the priority. However, we do not give an application that meets the priority a preference over other applications (34 CFR 75.105(c)(1)).

Final Priority:

We will announce the final priority in a document in the *Federal Register*. We will determine the final priority after considering responses to this document and other information available to the Department. This document does not preclude us from proposing additional priorities, requirements, definitions, or selection criteria, subject to meeting applicable rulemaking requirements.

Note: This document does not solicit applications. In any year in which we choose to use this proposed priority, we invite applications through a notice in the *Federal Register*.

Executive Orders 12866 and 13563

Regulatory Impact Analysis

Under Executive Order 12866, the Office of Management and Budget (OMB) determines whether this regulatory action is "significant" and, therefore, subject to the requirements of the Executive order and subject to review by OMB. Section 3(f) of Executive Order 12866 defines a "significant regulatory action" as an action likely to result in a rule that may--

(1) Have an annual effect on the economy of \$100 million or more, or adversely affect a sector of the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or Tribal governments or communities in a material way (also referred to as an "economically significant" rule);

(2) Create serious inconsistency or otherwise interfere with an action taken or planned by another agency;

(3) Materially alter the budgetary impacts of entitlement grants, user fees, or loan programs or the rights and obligations of recipients thereof; or

(4) Raise novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles stated in the Executive order.

OMB has determined that this proposed regulatory action is not a significant regulatory action subject to review by OMB under section 3(f) of Executive Order 12866.

We have also reviewed this proposed regulatory action under Executive Order 13563, which supplements and explicitly reaffirms the principles, structures, and definitions governing regulatory review established in Executive Order 12866. To the extent permitted by law, Executive Order 13563 requires that an agency--

(1) Propose or adopt regulations only upon a reasoned determination that their benefits justify their costs (recognizing that some benefits and costs are difficult to quantify);

(2) Tailor its regulations to impose the least burden on society, consistent with obtaining regulatory objectives and taking into account--among other things and to the extent practicable--the costs of cumulative regulations;

(3) In choosing among alternative regulatory approaches, select those approaches that maximize net benefits (including potential economic, environmental, public health and safety, and other advantages; distributive impacts; and equity);

(4) To the extent feasible, specify performance objectives, rather than the behavior or manner of compliance a regulated entity must adopt; and

(5) Identify and assess available alternatives to direct regulation, including economic incentives--such as user fees or marketable permits--to encourage the desired

behavior, or provide information that enables the public to make choices.

Executive Order 13563 also requires an agency "to use the best available techniques to quantify anticipated present and future benefits and costs as accurately as possible." The Office of Information and Regulatory Affairs of OMB has emphasized that these techniques may include "identifying changing future compliance costs that might result from technological innovation or anticipated behavioral changes."

We are issuing this proposed priority only on a reasoned determination that its benefits would justify the costs. In choosing among alternative regulatory approaches, we selected the approach that maximizes net benefits. Based on the analysis that follows, the Department believes that this regulatory action is consistent with the principles in Executive Order 13563.

The potential costs associated with this priority would be minimal, while the potential benefits are significant. The Department believes that this regulatory action does not impose significant costs on eligible entities. Participation in this program is voluntary, and the costs imposed on applicants by this regulatory action would be limited to paperwork burden related to preparing an application. The potential benefits of implementing the program would outweigh the costs incurred by applicants,

and the costs of carrying out activities associated with the application will be paid for with program funds. For these reasons, we have determined that the costs of implementation will not be excessively burdensome for eligible applicants, including small entities.

We also have determined that this regulatory action does not unduly interfere with State, local, and Tribal governments in the exercise of their governmental functions.

In accordance with these Executive orders, the Department has assessed the potential costs and benefits, both quantitative and qualitative, of this regulatory action. The potential costs are those resulting from statutory requirements and those we have determined as necessary for administering the Department's programs and activities.

In addition, we have considered the potential benefits of this regulatory action and have noted these benefits in the background section of this document.

Paperwork Reduction Act of 1995

The proposed priority contains information collection requirements that are approved by OMB under OMB control number 1820-0028; the proposed priority does not affect the currently approved data collection.

Clarity of the Regulations

Executive Order 12866 and the Presidential memorandum "Plain Language in Government Writing" require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make the proposed priority easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections?
- Could the description of the proposed regulations in the SUPPLEMENTARY INFORMATION section of this preamble be more helpful in making the proposed regulations easier to understand? If so, how?
- What else could we do to make the proposed regulations easier to understand?

To send any comments that concern how the Department could make these proposed regulations easier to understand, see the instructions in the ADDRESSES section.

Regulatory Flexibility Act Certification: The Secretary certifies that this proposed regulatory action would not have a significant economic impact on a substantial number of small entities. The U.S. Small Business Administration Size Standards define "small entities" as for-profit or nonprofit institutions with total annual revenue below \$7,000,000 or, if they are institutions controlled by small governmental jurisdictions (that are comprised of cities, counties, towns, townships, villages, school districts, or special districts), with a population of less than 50,000.

Participation in the SPDG program is voluntary. In addition, the only eligible entities for this program are SEAs, which do not meet the definition of a small entity. For these reasons, the proposed priority would not impose any additional burden on small entities.

We invite comments from small eligible entities as to whether they believe this proposed regulatory action would have a significant economic impact on them and, if so, request evidence to support that belief.

Intergovernmental Review: This program is subject to Executive Order 12372 and the regulations in 34 CFR part 79. One of the objectives of the Executive order is to foster an intergovernmental partnership and a strengthened federalism. The Executive order relies on processes developed by State and local governments for coordination and review of proposed Federal financial assistance.

This document provides early notification of our specific plans and actions for this program.

Accessible Format: On request to the program contact person listed under FOR FURTHER INFORMATION CONTACT, individuals with disabilities can obtain this document and a copy of the application package in an accessible format. The Department will provide the requestor with an accessible format that may include Rich Text Format (RTF) or text format (txt), a thumb drive, an MP3 file, braille, large print, audiotape, or compact disc, or other accessible format.

Electronic Access to This Document: The official version of this document is the document published in the *Federal Register*. You may access the official edition of the *Federal Register* and the Code of Federal Regulations at www.govinfo.gov. At this site you can view this document, as well as all other documents of this Department published in the *Federal Register*, in text or Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the *Federal Register* by using the article search feature at www.federalregister.gov. Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Katherine Neas,

Deputy Assistant Secretary,

*Delegated the authority to perform the functions and duties
of the Assistant Secretary for the Office of Special
Education and Rehabilitative Services.*

[FR Doc. 2022-01802 Filed: 1/31/2022 8:45 am; Publication Date: 2/1/2022]